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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,012	08/31/2001	Sachin G. Deshpande	SLA 1059	9339

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EXAMINER

PWU, JEFFREY C

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/944,012

Applicant(s)

DESHPANDE, SACHIN G.

Examiner

Jeffrey C. Pwu

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18, 20-28 and 31-38 is/are rejected.
- 7) ☒ Claim(s) 19, 29 and 30 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-18, 20-28, and 31-38 are rejected under 35 U.S.C. 102(b) as being unpatentable over Balakrishnan (U.S. 5,566,208).

Balakrishnan discloses a system and method for achieving simultaneous media play-out in a network comprising:

A server having a network (fig.3) connection port to supply a media stream at a first bit-rate (R), the server determining network delivery requirements, including client buffering capabilities, and in response, modifying the supply of the media stream; and at least one client having a network connection port to receive the media stream and to transmit buffering capacities to the server; (col.3, line 58-col.4, line 35)

wherein the server determines the network delivery requirements in response to determining media streaming disruptions; (col.3, line 58-col.4, line 35)

wherein the server determines the first minimum client buffering capacity; (Rcol.5, line 8-col.6, line 34)

Art Unit: 2143

wherein the server polls the clients for their respective buffering capacities; wherein each client transmits their buffering capacity to the server in response to the poll;

wherein the server determines the first minimum buffering capacity (R_{1-m1}) to be equal to the client with the smallest buffering capacity; (col.7, lines 35-65)

wherein each client scheduling the playout to be at a time equal to a first time interval plus the minimum buffering capacity divided by the first bit-rate; (col.7, lines 1-35)

wherein the server, prior to supplying a media stream at the first bitrate, communicates the first minimum buffering capacity to the clients; (col.7, lines 1-35).

a change in the number of client, following the supplying of media stream at a first bitrate; and, wherein the server determines the new minimum client buffering capacity, in response to the change in the number of clients, and modifies the supply of media stream in response to the new minimum buffering capacity; (col.6, lines 34-60)

wherein the server modifies the supply of the media stream by temporarily pausing the supply of the media stream at the first bitrate, and temporarily increasing the media stream bitrate; (col.3, line 5; *"These systems are desirable because it is generally better to allow the transmission bandwidth allotted to existing active communication links or channels in a network to be degraded (i.e., continue at a reduced bandwidth) when necessary rather than have some of them terminated. Also, much more*

sophisticated network management can be implemented if the bandwidth (i.e., bit-rate allotted to each link or channel) can be increased and decreased.”)

Allowable Subject Matter

3. Claims 19 and 29-30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

4. Applicant's arguments with respect to claims 1-38 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

Art Unit: 2143

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey C. Pwu whose telephone number is 571-272-6798.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



May 17, 2005

JEFFREY PWU
PRIMARY EXAMINER